

REMARKS

Claims 1-17 are pending in the present application. In the Office Action of February 24, 2005, all claims were rejected. Applicants hereby amend claims 1, 9, 13 and 17, and traverse the rejections as follows. Applicants also have added new claims 18-20.

Rejection under 35 U.S.C. § 102(e)

Claims 1-4, 6-7 and 9-17 were rejected under 35 U.S.C. § 102(e) as being anticipated by Roach (US Pat. No. 6,580,367). Applicants' amendments to the claims render the rejection moot.

Claim 1 is directed to a method for providing a hazardous material alert for use with a vehicle that is transporting hazardous material. The method includes steps of detecting a hazard event and transmitting the hazardous material alert in response to the hazard event, wherein the hazardous material alert includes information relating to the hazardous material. Claim 1 has been amended to further recite that transmitting the hazardous material alert includes sending a transmission from the vehicle that can be directly received by emergency personnel responding to the hazard event. Support for this amendment is found at paragraphs [0026] and [0027] of Applicants' specification.

Roach does not teach or suggest all of the elements recited in Applicants' amended claim 1. Roach at least does not teach or suggest transmitting the information directly to emergency personnel responding to the hazard event, as recited in Applicants' claim 1.

Roach discloses a vehicle information dispatch system that includes an information dispatch device 28 positioned within a vehicle 22. The device 28 transmits stored information to a command control center 24 via a GPS 26 upon detection of an emergency situation or activation of an activation button. The transmitted information includes information regarding the vehicle registration, the load being hauled by the vehicle, handling emergency situations concerning the vehicle and procedures for handling the load being hauled. After the command control center receives this information from the GPS, an operator at the command center analyzes the situation and provides information and instruction to emergency personnel (col. 8, lines 44-55). Roach, however, does not include a transmitter for transmitting the information directly to emergency personnel responding to the hazard event. Thus, if a vehicle encounters an emergency situation where the dispatch device 28 cannot establish communication with the GPS (for example, in a

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situation where the vehicle has rolled over and the dispatch device 28 does not have line-of-sight positioning with the GPS), the dispatch device cannot communicate to emergency personnel near the hazard event the information and instructions that they need to properly handle the emergency situation.

Applicants respectfully submit, therefore, that Roach does not anticipate claim 1. In addition, each of claims 2-4 and 6-7 depends from and includes all of the limitations of amended claim 1. For the reasons discussed above, therefore, Applicants also submit that Roach does not anticipate claims 2-4 and 6-7.

Claim 9 is directed to an apparatus for providing a hazardous material alert for use with a vehicle that is transporting hazardous material. The apparatus includes means for detecting a hazard event and means for transmitting the hazardous material alert in response to the hazard event, wherein the hazardous material alert includes information relating to the hazardous material. Claim 9 has been amended to further recite that transmitting the hazardous material alert includes sending a transmission from the vehicle that can be directly received by emergency personnel responding to the hazard event.

Roach does not teach or suggest all of the elements of Applicants' amended claim 9. As discussed above, Roach at least does not teach or suggest transmitting the information directly to emergency personnel responding to the hazard event, as recited in Applicants' claim 9. Applicants respectfully submit, therefore, that Roach does not anticipate claim 9. Each of claims 10-12 depends from and includes all of the limitations of amended claim 9. Applicants also submit, therefore, that Roach does not anticipate claims 10-12.

Claim 13 is directed to an apparatus for providing a hazardous material alert for use with a vehicle that is transporting hazardous material. The apparatus includes detection logic for receiving an indication that a hazard event has occurred, and transmission logic coupled to the detection logic. The transmission logic operates to transmit the hazardous material alert in response to the hazard event, wherein the hazardous material alert includes information relating to the hazardous material. Claim 13 has been amended to further recite that the transmission includes a transmission from the vehicle that can be directly received by emergency personnel responding to the hazard event.

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Roach does not teach or suggest all of the elements of Applicants' amended claim 13. As discussed above, Roach at least does not teach or suggest a transmission directly to emergency personnel at or in route to the hazard event, as recited in Applicants' claim 13. Applicants respectfully submit, therefore, that Roach does not anticipate claim 13. Each of claims 14-16 depends from and includes all of the limitations of amended claim 13. Applicants also submit, therefore, that claims 14-16 are patentable over Roach.

Claim 17 is directed to a computer-readable medium having instructions for execution by a hazard detection system that is used with a vehicle transporting hazardous material. The instructions, when executed by the hazard detection system, cause a hazardous material alert to be transmitted. The computer-readable medium includes instructions for detecting a hazard event and instructions for transmitting the hazardous material alert in response to the hazard event, wherein the hazardous material alert includes information relating to the hazardous material. Claim 17 has been amended to further recite that transmitting the hazardous material alert includes transmitting directly to emergency personnel at or in route to the hazard event.

Roach does not teach or suggest all of the elements of Applicants' amended claim 17. For example as discussed above, Roach does not teach or suggest that transmitting the hazardous material alert includes sending a transmission from the vehicle that can be directly received by emergency personnel responding to the hazard event, as recited in Applicants' claim 17. Applicants respectfully submit, therefore, that Roach does not anticipate claim 17.

Rejection under 35 U.S.C. § 103(a)

Claims 5 and 8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Roach (US Pat. No. 6,580,367). Applicants respectfully traverse this rejection. In any event, Applicants' amendment to claim 1 discussed above renders the rejection moot.

Claim 5 includes all of the limitations of claim 1 and further recites that the hazardous material alert has a range of less than 1000 feet from the vehicle. Claim 8 includes all of the limitations of claim 1 and further recites a step of adjusting a transmission power of the hazardous material alert based on the hazard event.

The Examiner acknowledges that Roach does not teach the recited range of claim 5 or adjusting the transmission power as recited in claim 8. The Examiner concludes, however, that the recited range and adjusted transmission power would have been obvious to one of ordinary

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skill in the art. The Examiner appears to base this conclusion on: (i) Applicants' disclosure in their specification at paragraph [0026], which the Examiner appears to point to for the motivation to modify the transmission of the Roach system, and (ii) the Examiner's contention that a transmission range of a few feet up to several hundred miles can be achieved by the GPS of the Roach system. Applicants respectfully submit, however, that Roach does not render Applicants' claims 5 and 8 obvious for at least the following reasons.

First, in determining whether there is some suggestion or motivation to modify the reference to produce the claimed invention, it is impermissible to resort to hindsight based on the Applicants' disclosure. See MPEP § 2142. As noted above, in concluding that Roach renders claims 5 and 8 obvious the Examiner appears to have impermissibly relied on Applicants' disclosure to find the motivation to modify the system of Roach to produce Applicants' claimed invention.

Second, a finding of obviousness requires that all claim limitations of the Applicant's invention must be taught or suggested by the prior art. MPEP § 2143.03. Roach, however, does not teach or suggest all of the elements of Applicants' amended claims 5 and 8. Both of these claims include all of the limitations of claim 1, which has been amended to recite that transmitting the hazardous material alert includes sending a transmission from the vehicle that can be directly received by emergency personnel responding to the hazard event. Roach does not disclose or suggest sending such a transmission from the vehicle directly to emergency personnel responding to the hazard event. Instead, as discussed above, the Roach system transmits a signal from the vehicle to a GPS satellite. Thus, the Roach system is incapable of sending any hazardous material transmission directly to emergency personnel responding to the hazard event, let alone sending such a transmission within a range of less than 1000 feet from the vehicle.

Applicants respectfully submit, therefore, that claims 5 and 8 are patentable over Roach.

Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal

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communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Respectfully submitted,

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